

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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UNITED STATES OF AMERICA,)
Plaintiff,) 2:12-cr-00067-LRH-GWF
v.)
DAVID JOHNSON,)
Defendant.) ORDER

Before this Court is the Findings & Recommendations of U.S. Magistrate Judge George W. Foley (#79¹) entered on December 26, 2012, recommending granting in part and denying in part Defendant's Motion to Suppress for Fourth Amendment and Fifth Amendment Violations (#17) filed on July 9, 2012. Defendant filed his Objection to Findings & Recommendations of United States Magistrate Judge (#84) on January 14, 2013. The Government filed its Objections to the Report and Recommendation of the United States Magistrate Judge on Defendant's Motion to Suppress for Fourth and Fifth Amendment Violations (#85) on January 14, 2013, and filed its Response to Defendant's Objections (#86) on January 17, 2013. Defendant filed his Response to Government's Objections (#87) on January 31, 2013.

The Court has conducted its *de novo* review in this case, has fully considered the parties'

¹Refers to court's docket number.

1 objections and responses, the pleadings and memoranda of the parties and other relevant matters of
2 record pursuant to 28 U.S.C. § 636 (b) (1) (B) and Local Rule IB 3-2. The Court determines that the
3 Magistrate Judge's Report and Recommendation (#79) entered on December 26, 2012, should be
4 adopted and accepted.

5 IT IS THEREFORE ORDERED that the Magistrate Judge's Report and Recommendation (#79)
6 entered on December 26, 2012, is adopted and accepted, and Defendant's Motion to Suppress for
7 Fourth Amendment and Fifth Amendment Violations (#17) is **GRANTED in part and DENIED in**
8 **part** as follows:

- 9 1. Defendant's Motion to Suppress (#17) is DENIED in regard to Defendant's claims under
10 the Fourth Amendment;
- 11 2. Defendant's Motion to Suppress (#17) is DENIED in regard to Defendant's claims under
12 the Fifth Amendment concerning Detective Tucker's questions to Defendant relating to his
13 identity;
- 14 3. Defendant's Motion to Suppress (#17) is GRANTED in regard to Defendant's claims under
15 the Fifth Amendment concerning Detective Tucker's questions relating to whether
16 Defendant resided in the apartment, and the Government is hereby PRECLUDED from
17 introducing those statement at trial in its case-in-chief.

18
19 IT IS SO ORDERED.

20 DATED this 15th day of March, 2013.



21 LARRY R. HICKS
22 UNITED STATES DISTRICT JUDGE
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